

## **REMARKS**

### **I. INTRODUCTION**

Applicants thank the Examiner for the indication of allowable subject matter in claims 4-5, 9-10, 12, 16, and 20 and 22. Applicants have cancelled claims 1-3, 6-8, 11, 13-15, 18 and 23-25, amended claim 21 and added new claim 26. Accordingly, claims 4-5, 9-10, 12, 16-17, and 20-22 are presently pending in this application. Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the following arguments.

### **II. AMENDMENTS TO THE CLAIMS**

Applicants have amended claim 21 to recite that the “side members” are “extending generally parallel to an axis extending in a longitudinal direction of said vehicle.” Support for this amendment can be found throughout the specification and drawings including in paragraphs 0017, 0028 and 0029. Accordingly, Applicants submit that the present amendment does not add any new matter.

### **III. NEW CLAIM 26**

Applicants have added new claim 26. Claim 26 is substantially similar to previously presented claim 22. Accordingly, Applicants submit that the newly added claim does not add any new matter.

### **IV. INFORMATION DISCLOSURE STATEMENT**

Applicant is submitting simultaneously herewith a revised Supplemental Information Disclosure Statement in compliance with 37 C.F.R. § 1.98(a)(1). Applicants respectfully request consideration of the information contained therein and entry into the record of this application.

**V. REJECTION OF CLAIMS 1-3, 6-8, 11, 13-15, AND 17-18 UNDER 35 U.S.C. § 102(B)**

Claims 1-3, 6-8, 11, 13-15 and 17-18 stand rejected under 35 U.S.C. § 102(b) as anticipated by Berckhan (U.S. Patent No. 3,243,007). Applicants have cancelled claims 1-3, 6-8, 11, 13-15 and 18. Applicants respectfully submit that the rejection of remaining claim 17 under 35 U.S.C. § 102(b) is improper because Berckhan does not disclose or suggest all of the limitations recited in the claims. In re Paulsen, 30 F.3d 1475, 1478-79, 31 U.S.P.Q.2d 1671 (Fed. Cir. 1994); Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”).

Independent claim 17 recites “a subframe” including “first and second side members” and “first and second cross members” and a “strut rod having a first end coupled to said subframe and a second end coupled to a vehicle frame.” Applicants respectfully submit that Berckhan does not disclose or suggest a subframe meeting the above-recited limitations.

The Examiner has identified item 61 as a strut rod. Item 61, however, is not a strut rod, but a “torsion rod” as stated in Berckhan at Col. 3, lines 35 to 46. Although item 61 is referred to by Berckhan as a “torsion rod”, item 61 is, in effect, a spring. Item 61 forms part of the vehicle suspension and reacts the vertical wheel loads and is not part of the sub-frame structure. The “torsion rod” is therefore not the same as a strut rod and have a different function and purpose than the claimed strut rod.

Because Berckhan does not teach or suggest all of the limitations recited in independent claim 17, Applicants submit that the rejection of claim 17 under 35 U.S.C. §

102(b) is improper. Accordingly, Applicants request that the rejection of claim 17 under 35 U.S.C. § 102(b) be withdrawn.

**VI. REJECTION OF CLAIM 21 UNDER 35 U.S.C. § 102(B)**

Claim 21 stands rejected under 35 U.S.C. § 102(b) as anticipated by

Roethlisberger (U.S. Patent No. 4,057,120). Applicants have amended claim 21.

Applicants respectfully submit that the rejection of claim 21 under 35 U.S.C. § 102(b) has been overcome because Roethlisberger does not disclose or suggest all of the limitations recited in claim 21 as amended. In re Paulsen, 30 F.3d 1475, 1478-79, 31 U.S.P.Q.2d 1671 (Fed. Cir. 1994); Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”).

Claim 21, as amended, recites a subframe including first and second side members “extending generally parallel to an axis extending in a longitudinal direction of said vehicle.” Applicants respectfully submit that Roethlisberger does not disclose or suggest a subframe meeting the above recited limitation.

Roethlisberger discloses a subframe having upper and lower cross members 12, 14, connected by “substantially vertically extending strap members 16 and 17...” Col. 1, lines 61-67. Accordingly, Roethlisberger discloses a subframe that is substantially vertically oriented as opposed to being substantially horizontally oriented as recited in claim 21, as amended. In particular, the asserted side members 16, 17 of Roethlisberger do not extend “generally parallel to an axis extending in a longitudinal direction of said vehicle” as recited in the claim, but rather extending perpendicular to the axis.

Applicants further submit that it would not have been obvious to orient Roethlisberger in

the substantially horizontal orientation. The subframe of Roethlisberger was specifically designed and oriented to accommodate drive axle components such as a differential. Col. 1, lines 6-9, 22-32, 41-47.

Because Roethlisberger does not teach or suggest all of the limitations recited in independent claim 21 as amended, Applicants submit that the rejection of claim 21 under 35 U.S.C. § 102(b) has been overcome. Accordingly, Applicants request that the rejection be withdrawn.

#### **VII. REJECTION OF CLAIMS 23-25 UNDER 35 U.S.C. § 103(A)**

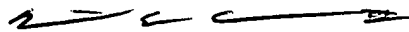
Claims 23-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berckhan (U.S. patent No. 3,243,007). Applicants have cancelled claims 23-25.

Accordingly, Applicants submit that the rejection is moot.

#### **VIII. CONCLUSION**

Applicant respectfully requests entry of the above amendments prior to appeal on this matter. If the Examiner has any further questions or concerns, the Examiner is invited to contact the Applicant's undersigned attorney.

Respectfully submitted,



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